

**PHARMACY EXAMINING BOARD
OCTOBER 13, 2004
MEETING MINUTES**

PRESENT: Cynthia Benning, R.Ph.; Michael Bettiga, R.Ph.; John Bohlman, R.Ph.; Fredric Moskol, R.Ph.; Charlotte Rasmussen; and Susan Sutter, R.Ph.

EXCUSED: Georgina Forbes

STAFF: Tom Ryan, Bureau Director; Bill Black, DRL Board Counsel; Kevin Murphy, Bureau Assistant; and Darwin Tichenor and DOE Staff for portions of the meeting.

GUESTS: Larry Edwards, R.Ph., Department of Corrections; Darrin Wirkes, Target Pharmacy; Jack Monroe, Target Pharmacy; Paul Baum, R.Ph., GHC; Keeley Treviranus; Rich Verschay, R.Ph., Board Appointee; Tom Engels, PSW; Michele Shuster, Kegler, Brown, Hill & Ritter; and Kevin Fearon, Neighbor Care.

CALL TO ORDER

Chair Michael Bettiga called the meeting to order at 9:00 a.m.

APPROVAL OF AGENDA

Additions:

Item B – Correspondence from MPJE and NAPLEX
Item E – Scope Statements of Outstanding Rules
Item K – Kurt Begalke correspondence
Item M – Kegler, Brown packet
Item N – Follow-up to NOSHOR annual meeting – 340B Program
Item O – FDA notice
After O – Credentialing statistics
After S – Consideration of Administrative Warning – 02 PHM 099
After S – Proposed Stipulation, Final Decision and Order – Skifton

Deletion:

After A – Presentation of Proposed Administrative Warning – 03 PHM 031

MOTION: Charlotte Rasmussen moved, seconded by Cynthia Benning, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF AUGUST 11, 2004

On page 11, change “routed administration” to “route of administration.”

MOTION: Cynthia Benning moved, seconded by John Bohlman, to approve the minutes as amended. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS

Attorney Michael Berndt presented the Proposed Stipulation, Final Decision and Order in the matter of disciplinary proceedings against Mitchel Hipler, R.Ph. – Tomahawk, WI. Case Advisor - Charlotte Rasmussen

Attorney Jeanette Lytle presented the Proposed Stipulation, Final Decision and Order in the matter of 03 PHM 074. Case Advisor - Sue Sutter

Attorney David Hart presented the Proposed Stipulation, Final Decision and Order in the matter of 03 PHM 031. Case Advisor – Cynthia Benning

Attorney Gil Lubcke presented the Proposed Stipulation, Final Decision and Order in the matter of 02 PHM 099. Case Advisor – Cynthia Benning

ADMINISTRATIVE REPORT

Department Liaison motion – review for approval

The Board approved a motion drafted by Legal Counsel permitting the credentialing liaison to make certain licensing decisions on behalf of the Board. A copy of the motion will be maintained in the Division of Credentialing and the Bureau.

2005 Meeting Dates

MOTION: Cynthia Benning moved, seconded by Charlotte Rasmussen, to approve the following dates for 2005: February 9, April 13, June 22, July 20, September 7, October 19, and December 7. Exams will be held the day before the meeting, and screening will be held at 8:00 a.m. on the morning of the meeting. Motion carried.

NAPLEX/MPJE Extensions

MOTION: John Bohlman moved, seconded by Sue Sutter, to authorize the Bureau Director to sign the extensions after review by DRL Board Counsel. Motion carried unanimously.

MOTION: Sue Sutter moved, seconded by Cynthia Benning, to nominate John Bohlman and DRL Board Counsel to attend the MPJE

workshop review meeting in January. Mrs. Bohlman will participate in the questioning process. Motion carried unanimously.

FSMB WORKSHOP SERIES – INVITATIONS TO PARTICIPATE

MOTION: Sue Sutter moved, seconded by Charlotte Rasmussen, to nominate Bill Black and Cindy Benning to serve as representatives of the Board at a 2005 FSMB Pain Workshop. Motion carried unanimously.

SUPPLEMENTAL EXAMINATIONS – RESPONSE FROM NABP

The Bureau Director briefly reviewed the information received from NABP. The Board then expressed a desire for more information on the details of these supplemental exams. The Board suggested that the Department staff visit the websites of states with a supplemental exam, or to send letters to these states requesting a brief description of their exam. The Board also mentioned that having access to current Wisconsin statutes and rules pertaining to exams could guide them as they move forward in this process.

PRACTICE QUESTION – KEVIN FEARON OF NEIGHBORCARE AND ATTORNEY MICHELE SHUSTER

Mr. Fearon and Ms. Shuster outlined their proposal and took questions from the Board. After a lengthy discussion over Wisconsin's rules for central processing, central fill, and out-of-state pharmacies, the Board concluded Mr. Fearon's proposal was acceptable under current law.

SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES, ADMINISTRATIVE RULES AND LEGISLATION, INCLUDING:

Departmental Rule – Wis. Admin. Code § RL 4.01, 4.07, 4.08, 4.09

DRL Board Counsel explained the new Departmental rule regarding fingerprinting and background checks.

Board review Wis. Admin. Code § PHAR 7.04 – review for approval to Clearinghouse

DRL Board Counsel then briefly reviewed his most recent draft of PHAR 7.04. After some edits from the Board, Board Counsel agreed to create another copy for the next meeting.

Wis. Admin. Code § DHFS- 157.13 (re-write) – Board review and appointment of liaison

Paul Schmidt from DHFS explained the relevant components of the rule and took suggestions from the Board.

MOTION: Charlotte Rasmussen moved, seconded by Fredric Moskol, to appoint Cynthia Benning as the liaison to the rule advisory group. Motion carried unanimously.

VARIANCE REQUEST – STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS – LARRY EDWARDS, R.PH. – WAUPUN, WI

DRL Board Counsel and the Board suggested that Mr. Edwards submit a remodel request to include the “data room” in the pharmacy.

VARIANCE REQUEST – GROUP HEALTH COOPERATIVE, INC. – PAUL BAUM, R.PH. – MADISON, WI

MOTION: John Bohlman moved, seconded by Sue Sutter, to grant the variance request of Group Health Cooperative, Inc. Motion carried unanimously.

VARIANCE REQUEST – PESHTIGO PHARMACY – R.W. CLEMENT, R. PH. – PESHTIGO, WI

MOTION: John Bohlman moved, seconded by Fredric Moskol, to grant a variance for the closed portion of the Pharmacy. Motion carried unanimously.

VARIANCE REQUEST – ST. LUKE’S MEDICAL CENTER – PRATI WOJTAL, R. PH. – MILWAUKEE, WI

MOTION: John Bohlman moved, seconded by Sue Sutter to defer action on the variance pending the receipt of more information. Motion carried unanimously.

DRL Board Counsel will follow up with Ms. Wojtal.

VARIANCE REQUEST – COVENANT PHARMACY – KURT BEGALKE, R.PH. – MILWAUKEE, WI

MOTION: John Bohlman moved, seconded by Susan Sutter, to grant the variance request of Covenant Pharmacy. Motion carried unanimously.

APPLICATION REVIEW – ASTRUP DRUG, INC./SMART-FILL (OUT OF STATE PHARMACY) – TIM J. GALLAGHER – AUSTIN, MN

DRL Board Counsel discussed the range of the Board's jurisdictional authority in issues of out of state and central fill pharmacies. The discussion then turned to the statutes of adjacent states with respect to out of state pharmacies. The Board decided to continue discussion at the December meeting.

MOTION: Sue Sutter moved, seconded by Charlotte Rasmussen, to grant a license to Astrup Drug, Inc. under the condition that they submit a report of the most recent Minnesota inspection. Astrup Drug, Inc. must also submit a formal variance request. Motion carried unanimously.

DRL Board Counsel will follow up with Astrup Drug, Inc.

PRACTICE QUESTION – CLICK PHARMACY

The Board agreed that Click Pharmacy does not need a Wisconsin license.

PRACTICE QUESTION – COVENANT PHARMACY

The Board asked counsel to send a letter to Kurt Begalke asking for more information to clarify "agent/pickup procedures."

REMOTE DISPENSING

The Board discussed remote dispensing and possible future action. Board Counsel outlined the advantages of statutory action over rulemaking, including the ability to navigate the process more swiftly, create more visibility for the issue, and more clearly articulate the Board's desired course of action. After some discussion, Board Counsel agreed to draft some initial language to bring before the Board in December.

INFORMATIONAL ITEMS

Noted.

LICENSING LIAISON REPORT – SUE SUTTER

Ms. Sutter briefly reviewed a hard copy of the credentialing report.

PSW PHARMACY FORUM 11/30

The Bureau Director reminded the Board about the need to comply with Open Meetings Law requirements. If a quorum is present at the November 30 forum, the Board

ensured that the proper steps would be taken to notify the Department so that the meeting can be officially noticed.

CLOSED SESSION

MOTION: Cynthia Benning moved, seconded by Charlotte Rasmussen, to convene to closed session to deliberate on case(s) following hearing (Wis. Stat. § 19.85 (1) (a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b) and 440.205); to consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g). Motion carried unanimously in a roll call vote.

The Board convened into closed session at 2:25 p.m.

MOTION: Cynthia Benning moved, seconded by John Bohlman, to invite Board appointee Rich Verschay into closed session. Motion carried unanimously.

OPEN SESSION

MOTION: Cynthia Benning moved, seconded by John Bohlman, to reconvene into open session. Motion carried unanimously.

The Board reconvened into open session at 4:30 p.m.

VOTING ON ITEMS DELIBERATED ON IN CLOSED SESSION

DELIBERATION OF PROPOSED STIPULATION FINAL DECISION AND ORDER IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST MITCHEL HIPLER, R.PH. – TAMAHAWK, WI – CASE ADVISOR – CHARLOTTE RASMUSSEN

MOTION: Sue Sutter moved, seconded by John Bohlman, to adopt the stipulation, final decision and order in the matter of Mitchel Hipler, R.Ph. Motion carried unanimously.

DELIBERATION OF PROPOSED STIPULATION FINAL DECISION AND ORDER IN THE MATTER OF CASE 03 PHM 074 – CASE ADVISOR – SUE SUTTER

MOTION: Cynthia Benning moved, seconded by John Bohlman, to adopt the stipulation, final decision and order in the matter of case 03 PHM 074. Motion carried unanimously.

MOTION: John Bohlman moved, seconded by Cynthia Benning, to require the respondent to submit to the Board weekly reports of all computations done for the next three months. Motion carried unanimously.

DELIBERATION OF PROPOSED STIPULATION FINAL DECISION AND ORDER IN THE MATTER OF CASE 03 PHM 031 - CASE ADVISOR – CYNTHIA BENNING

The Board sent the stipulation, final decision and order back to the Division of Enforcement for further review.

DELIBERATION OF PROPOSED ADMINISTRATIVE WARNING IN THE MATTER OF 03 PHM 031 – CASE ADVISOR – CINDY BENNING

MOTION: Sue Sutter moved, seconded by Fredric Moskol, to issue an administrative warning in the matter of 03 PHM 031. Motion carried unanimously.

MOTION: Sue Sutter moved, seconded by John Bohlman, to close case 03 PHM 031 for no violation. Motion carried unanimously.

DELIBERATION OF PROPOSED STIPULATION FINAL DECISION AND ORDER IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST JENNIFER SKIFTON, R.PH. – CASE ADVISOR – CYNTHIA BENNING

MOTION: Sue Sutter moved, seconded by Fredric Moskol, to adopt the stipulation, final decision and order in the matter of Jennifer Skifton, R.Ph. Motion carried unanimously.

DELIBERATION OF PROPOSED ADMINISTRATIVE WARNING IN THE MATTER OF 02 PHM 099 – CASE ADVISOR – CINDY BENNING

MOTION: Sue Sutter moved, seconded by John Bohlman, to issue an administrative warning in the matter of 02 PHM 099. Motion carried unanimously.

CASE CLOSINGS

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to close case 04 PHM 035 for insufficient evidence. Motion carried unanimously.

MOTION: John Bohlman moved, seconded by Sue Sutter, to close case 01 PHM 027 for P2. Motion carried unanimously.

MOTION: Sue Sutter moved, seconded by Cynthia Benning, to close case 03 PHM 080 for no violation. Michael Bettiga abstained from deliberation and voting. Motion carried.

MOTION: Sue Sutter moved, seconded by Cynthia Benning, to close case 03 PHM 084 for P2. Michael Bettiga abstained from deliberation and voting. Motion carried.

MOTION: John Bohlman moved, seconded by Sue Sutter, to close case 03 PHM 061 for no violation. Motion carried unanimously.

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to authorize John Bohlman to make a decision on IPP case 331, once he receives the necessary case information. Motion carried unanimously.

DOE MONITORING:

**WILLIAM KARWOSKI, R.PH. – REQUEST FOR THREE MONTH STAY OF
SUSPENSION WITH MODIFCATIONS**

MOTION: Sue Sutter moved, seconded by Fredric Moskol, to grant the stay, but deny modifications in the matter of William Karwoski, R.Ph. Motion carried unanimously.

**DUANE OESTREICH, R.PH. – REQUEST FOR REINSTATEMENT OF
LIMITED LICENSE**

MOTION: Sue Sutter moved, seconded by John Bohlman, to reinstate the license of Duane Oestreich, but the Board will require complete supervision of his practice. Michael Bettiga abstained from deliberation and voting. Motion carried.

**MICHAEL O'KRAY, R.PH. – REQUEST FOR THREE MONTH STAY OF
SUSPENSION WITH MODIFICATIONS**

MOTION: Sue Sutter moved, seconded by John Bohlman, to grant the stay with a reduction in therapy from twice per month to once every three weeks, and a reduction in screenings from four per month to two per month.

**ANDREW RICE, R.PH. – REQUEST FOR 3 MONTH STAY OF SUSPENSION
WITH MODIFICATIONS**

MOTION: Sue Sutter moved, seconded by John Bohlman, to grant the stay with the following modifications: an additional four hours for

“Pharmacist in Charge”; the ability to open and close the pharmacy consecutively; and a reduction in therapy to once per month. Michael Bettiga abstained from deliberation and voting. Motion carried.

**JOHN SCHMITT, R.PH. – REQUEST FOR THREE MONTH STAY OF
SUSPENSION WITH MODIFICATION**

MOTION: John Bohlman moved, seconded by Sue Sutter, to grant the stay but to deny modifications in the matter of John Schmitt, R.Ph. Michael Bettiga abstained from deliberation and voting. Motion carried.

**CHARLENE WILLIS, R.PH. – REQUEST FOR THREE MONTH STAY OF
SUSPENSION WITH MODIFICATIONS**

MOTION: Sue Sutter moved, seconded by John Bohlman, to grant the stay but to deny modifications in the matter of Charlene Willis, R.Ph. Motion carried unanimously.

**WOMENS INTERNATIONAL PHARMACY – CONSIDERATION OF
PETITION TO MODIFY ORDER**

MOTION: John Bohlman moved, seconded by Sue Sutter, to remove the limitations from the license of Women’s International Pharmacy. Cynthia Benning abstained from deliberation and voting. Motion carried.

EXAMINATION ISSUES

MOTION: Cynthia Benning moved, seconded by John Bohlman, to validate the examination scores from October 12, 2004. Motion carried unanimously.

ADJOURNMENT

MOTION: Cynthia Benning moved, seconded by John Bohlman, to adjourn the meeting. Motion carried unanimously.

Meeting adjourned at 4:40 p.m.

Next Meeting: December 8, 2004